

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF ILLINOIS

IN RE:)	
)	
MELANIE SUE HOFFMAN,)	No. 04-82580
Debtor.)	

O P I N I O N

This matter is before the Court on the Objection filed by the Chapter 7 Trustee, Gary T. Rafool (TRUSTEE), to an exemption claimed by the Debtor, Melanie Sue Hoffman (DEBTOR), in proceeds from a life insurance policy insuring the life of her husband who passed away two months before she filed her bankruptcy petition.

On her schedule of personal property, the DEBTOR scheduled funds in the amount of \$25,024.66 on deposit with Havana National Bank. She designates the funds as "proceeds from life insurance proceeds payable to debtor due to death of husband (3/31/2004)." On her schedule of exemptions, the DEBTOR claims the entire amount exempt, citing "735 ILCS 5/12-1001(f), (h)(3)."

The TRUSTEE filed an objection to the exemption claim on the grounds that the "debtor is not entitled to the full life insurance payment because it is not reasonably necessary for her support." After a brief hearing, the Court took the matter under advisement. Briefs have not been submitted since the parties were aware that the Court had the same issue under advisement in *In re Mary B. Ashley*, Case No. 04-80979, and agreed that the issue would be determined by the Court's decision in that case.

Ashley has now been decided. In an Opinion issued October 6, 2004, this Court held that a debtor who had received \$48,000 in proceeds from two life insurance policies insuring the life of her husband, and who was named as the sole beneficiary on each policy, was

entitled to an exemption in the full amount of the proceeds under 735 ILCS 5/12-1001(f), without having to establish that the proceeds were reasonably necessary for her support or the support of a dependent of hers.

The DEBTOR has relied upon 735 ILCS 5/12-1001(f) as a basis for the exemption claim and, for the reasons set forth in the *Ashley* Opinion, she is entitled to exempt the full \$25,024.66 in life insurance proceeds without having to establish that the proceeds are reasonably necessary for her support or the support of a dependent. Accordingly, the TRUSTEE'S objection to the exemption claim will be denied.

This Opinion constitutes this Court's findings of fact and conclusions of law in accordance with Federal Rule of Bankruptcy Procedure 7052. A separate Order will be entered.

Dated: October 7, 2004.

THOMAS L. PERKINS
UNITED STATES BANKRUPTCY JUDGE

Copies to:

Ted Collins, Attorney for Debtor, 177 W. Lincoln, Lewistown, IL 61542
Gary T. Rafool, Trustee, 411 Hamilton, Suite 1600, Peoria, IL 61602
U.S. Trustee, 401 Main Street, Suite 1100, Peoria, Illinois 61602

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IN RE:)
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ORDER

For the reasons stated in an Opinion filed this day, IT IS HEREBY ORDERED that

1. The Debtor's claim of exemption in life insurance proceeds scheduled as \$25,024.66 is allowable, in full, pursuant to 735 ILCS 5/12-1001(f), without a showing by the Debtor that she was a dependent of the insured or that the proceeds are reasonably necessary for the support of the Debtor or a dependent of the Debtor.

2. The Trustee's objection to that exemption claim is DENIED.

Dated: October 7, 2004.

THOMAS L. PERKINS
UNITED STATES BANKRUPTCY JUDGE

Copies to:
Ted Collins
Gary T. Rafool
U.S. Trustee